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Papers In
Connection
with Pareshath
Hill

1888

Part - I

Sub.- Historical
Geographical And
Statistical
Report/Parasnath
Hill

1888

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PAPERS

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PARESNATH HILL.

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XIII.A
65

CONTENTS.

	Page.
Akber's Firman	1
Firman of King Ahmud Shah Bahadur	3
Letter from Commissioner of Chotanagpore to the Secretary to the Government of Bengal, concerning Puran Chund Golicha's petition to Government, (No. 503, dated Chotanagpore the March 1868)	5
Letter from the Assistant Commissioner of Govindpore to the Deputy-Commissioner of Manbhoom, concerning the quarrel between the Jains and the Palgunj Zemindar, (No. 111, dated Govindpore the 16th May 1867) ...	10
Letter from Commissioner of Chotanagpore to the Deputy-Commissioner of Manbhoom, concerning ditto, (No. 1211, dated the 22nd May 1867)	11
The Order of Captain E. T. Dalton, Commissioner of Chotanagpore in the Case No. 39 of 1860, of Ranee Puran Koowaree, Mother and Guardian of Rajah Paresnath Sing, Defendant Appellant, *versus* Ranees Tarakumaree and Sabitreekumaree, Guardians of Pertab Narain Singh, Rajah of Nowagurh, Plaintiffs, Respondents	11
Letter from the Deputy-Commissioner of Hazareebagh to the Commissioner of Chotanagpore, concerning the quarrel among the Rajah, the Situmbury and the Digumbury Sects of Jains, (No. 62, dated the 1st February 1868) ...	13
Letter from Commissioner of Chotanagpore to the Deputy-Commissioner of Manbhoom for posting of Police at Manbhoom and regarding Survey Pillar, (No. 1344, dated the 3rd June 1868)	15
Letter from Commissioner of Chotanagpore to Messrs. Watkins and Stokoe, Calcutta, regarding the killing of animals on the hill, (No. 1405, dated the 2nd August 1865)	16
Regular Appeal (No. 207 of 1865, dated the 17th May 1866), before the Judicial Commissioner from the decision of the Assistant Commissioner of Hazareebagh Division, dated the 11th September 1865, Purun Chund Golicha, Plaintiff Appellant *versus* the Guardians of the Minor Rajah, Defendant Respondent	17
Resolution of the Bengal Government, dated the 9th April 1868, on Purun Chund Golicha's petition, dated the 13th December 1867	19
Regular appeal from a decision passed by the Deputy-Commissioner of Hazareebagh, (dated the 25th June 1868) Poorun Chund Golicha (Defendant) appellant, *versus* Pareshnath Singh (Plaintiff) Respondent	21*a*
Ikrarnama executed by Babu Horuck Chund Golicha in favor of Rajah Paresnath Singh, dated the 6th Ashin 1285 Bengali, corresponding with the 21st September 1878 ...	23
Agreement executed by Rajah Paresnath Singh, in favor of Babu Horuck Chund Golicha, dated 21st September 1878	27
Pattah granted by Rajah Paresnath Singh to Mr. R. H. Baddam, dated the 14th October 1876	31

No. 1.

Firman of JELALOODDEEN MAHOMÉD AKBER BADSHA the Victorious.

Glory of religion and World, Akber Badsha, the son of Humayoon Badsha, the son of Baber Badsha, the son of Shaik Omer Mirza, the son of Sultan Aboo Syud, the son of Sultan Mahomed Mirza, the son of Meerun Shah, the son of Tymoor, the Lord of happy conjunction, (Jupiter and Venus).

Be it known to the officers of the present and future times, and to the Governors, Tax Collectors and the Jagirdars of the Soobas of Malwa and Shah Jehanabad, the Metropolis of Lahore, the seat of royalty of Mooltan, the place of peace and tranquillity, of Ahmedabad and of Ajmere, the place of goodness, and of Meerut, Gujrat and the Sooba of Bengal and of other territories under our Government:—

Whereas the whole of our noble thought and attention is directed to attend to the wishes, and seek the pleasures of subjects; and the sole aim of our mind which wishes well of all is to secure love and affection of the people and the ryots who are the noblest trust (committed to our charge) of the Lord—the great bestower of bounties; and whereas our mind is especially occupied in searching for the men of pure hearts and those that are devotional; therefore whenever tidings of a person's passing his valuable time solely in the remembrance of God comes to our ear from any quarter of the territories subject to our dominion, we become extremely desirous of ascertaining his virtues and intrinsic merits, without any regard to his religion, faith or creed, and by laudable means and in honorable manner we bring him from afar, admit him into our presence and enjoy the pleasure of his company.

As many a time the accounts of the Godliness and austere devotion of Heer Bijoy Soor, an Acharj (preceptor) of the Jain Setambari religion, and those of his disciples and followers who live at the ports of Gujrat, had come to our noble ear, we sent for and called him. After the interview, which made us very glad, was over, he intended to take leave in order to return to his original and native country. He therefore requested that by way of extreme kindness and favor a royal mandate which is obeyed by all the world, be issued to the effect that the heaven reaching mountains of Sidhachalji, Girnarji, Tarungaji, Kessurianathji and Abbooji, situate in the country of Gujrat, and all the five mountains of Rajgirji, and the mountain of Somed Sekhurji, *alias* Paresnathji, situate in the country of Bengal, and all the cotees and all temples below the

mountains and all the places of worship and pilgrimage of the Jain Setambari religion throughout our empire whereever they may be, be in his possession ; and that no one can slaughter an animal on those mountains and in the temples or below or about them. As he had come from a long distance and in truth his request was just and proper, and appeared not to be repugnant to the Mahomedan Law; it being the rule of the learned to respect and preserve all religions; and as it became evident upon enquiry and after thorough investigation that all those mountains and places of worship really belong to the Jain Setambari religion from a long space of time ; therefore we comply with his request, and grant to and bestow upon Heer Bijoy Soor, Acharj of the Jain Setambari religion, the mountain of Sidhachal, the mountain of Girnar, the mountain of Tarunga, the mountain of Kessuria-Nath, and the mountain of Abboo, lying in the country of Gujrat, and the five mountains of Rajgiree and the mountain of Somed Sekhur, *alias* Paresnath, situate in the country of Bengal, and all the places of worship and pilgrimage below the mountains, and wherever there may be any places of worship appertaining to the Jain Setambari religion throughout our empire. It is proper that he should perform his devotion with the ease of mind.

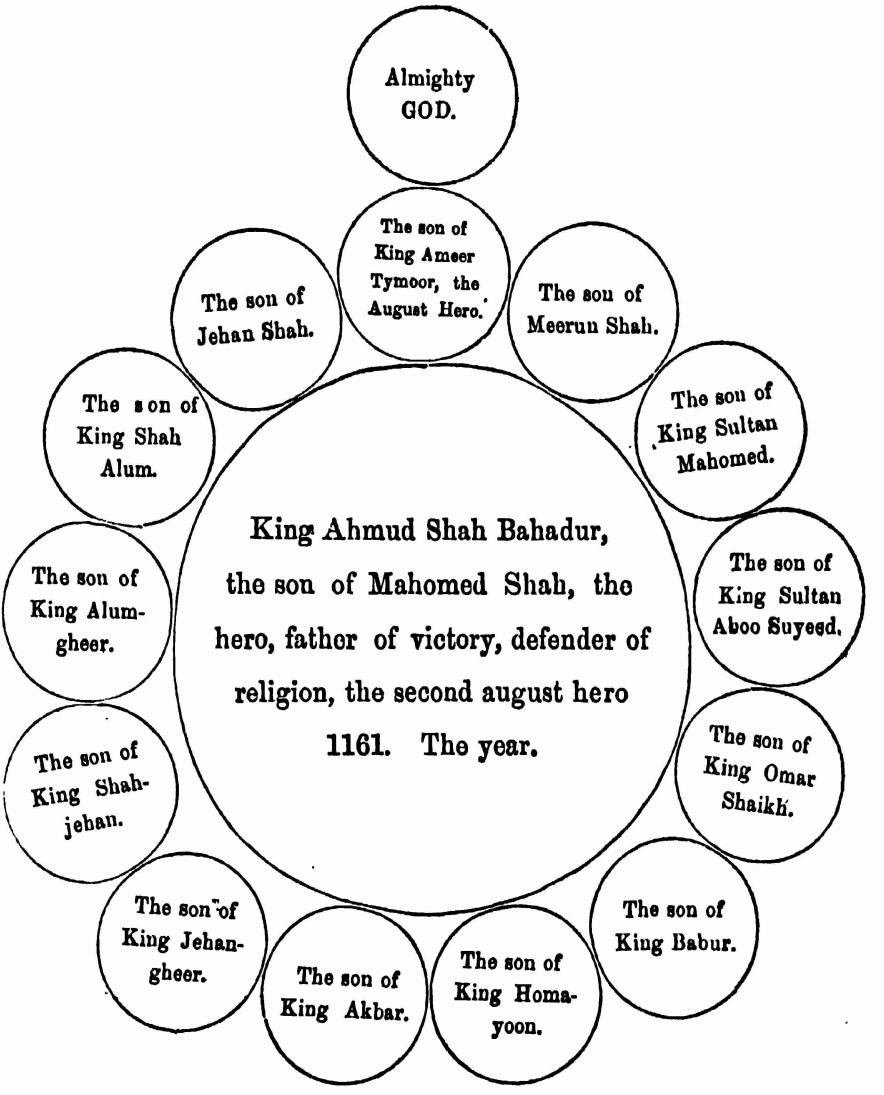
It may be obvious that although these mountains and places of worship and pilgrimage—the places of the Jain Setambari religion have been given to Heer Bijoy Soor, yet in reality they belong to the Jain Setambari religion.

Let the orders of this everlasting Firman shine like the Sun and the Moon amongst the followers of the Jain Setambari religion so long as the Sun, the illuminator of the Universe, continues to impart light and brightness to the day, and the Moon remains to give splendour and beauty to the night. Let no one offer any opposition or raise any objection to the same; and let no body slaughter an animal on, below or about the mountains, and in the places of worship and pilgrimage. Let the orders of this Firman, obeyed by all the world, be acted upon and carried out, and let none depart from the same, or demand a new Sanad. Dated, the 7th of the month Urdi Bihisht, corresponding with the month Rabeool-awwal of the thirty seventh year of the auspicious reign.

Translated by me,
MAHOMED ABDOOLLAH
MOONSHI,
Of the Rajkumar College.

RAJKUMAR COLLEGE,
RAJKOTEE,
11*th Novr.* 1875.

In the name of the Purest, Highest in Station.



Firman of King Ahmud Shah Bahadur, the hero, father of Victory, defender of religion.

Be it known to the Officers and Managers of the present and future affairs of the Province of Bengal and the other Provinces under dominion, that Jugut Seit Mahtaub Roy represented to this high in dignity that mountain Paresnathjee, situate in the country of Bengal, the place of worship according to the Jain Setamburee religion

also the Cotee at station Mudhoobun, on a rent-free (lakheraj) ground, butted and bounded by four boundaries belong to the followers of the Jain Setamburee religion; and that he, the devoted supplicant, is a follower of the Jain Setamburee religion, he, therefore, is hopeful of the Royal bounty that the mountain and the *Cotee* aforesaid, be bestowed by the resplendent Huzoor on that obedient supplicant, so that, composed in mind, he may devote himself to pray according to that religion. Whereas the person aforesaid deserves Royal favor and bounty, also as it appears that the property he asks for has a particular connection with him, and (as) it appeared on inquiry instituted by this high in diginity that mountain Paresnath and the *Cotee* aforesaid have from a long time appertained to the (followers of the) Jain Setambaree religion, therefore the whole of the mountain Paresnath and the *Cotee* at Mudhoobun butted and bounded by four boundaries, are bestowed by the Royal Court on the aforesaid person, that he may always be devoted to pray for the state; and no one may offer opposition respecting the mountain Paresnath and the *Cotee* at Mudhoobun.

Knowing this to be a very urgent matter, let them act as directed. Finis.

The whole of mountian Paresnath situate in the country of Bengal.

Three hundred and one Beeghas of Lakhraj land of Mudhoobun, situate in the country of Bengal, butted and bounded by four boundaries specified below.

On the West——the water course of Joyporiah, alias Joyungur.
On the East——the old water-course.
On the North——the *koond* or reservior (called) Julhurry prepared by the (followers of the) Jain Setambaree religion.
On the South——The bottom of mountain Paresnath.

Written on the 27th day of the month of Jemadee-oolawal, the fifth year of the king's reign.

(On the back.)

The Khan of Khans Kumiroodideen Khan Bahadur, Victorious in War, the Vizier of territories, Manager of affairs, Noblest of Nobles, the Head of the country, Commander-in-Chief, a faithful friend and servant of the King Ahmud Shah, the Hero.

A true translation of the annexed Persian Document for Baboo Poorun Chund.

The 19*th March* 1868.

Shamachurn Sircar,
Chief Interpreter and Translator,
High Court, Original Jurisdiction.

From Colonel E. T. Dalton, Commissioner of Chota Nagpore, to H. L. Dampier, Esq., Officiating Secretary to the Government of Bengal,—(No. 503, dated Chota Nagpore, the March 1868).

SIR,

With reference to your office endorsement No. 15 of the 2nd, No. 341 of the 20th January 1868, and No. 657 of the 7th Ultimo, I have the honor to report on the petitions presented to Government by Baboo Poorun Chand Golicha Kootewal Seth as Honorary Manager of the Setambari Jain Temples of Parishnath Hill.

2. The petitioner objects to and prays for the withdrawal of a letter of mine to the Deputy Commissioner of Manbhoom, No. 1211, dated the 22nd May 1867.

3. This letter was written by me on receipt of a communication* from Mr. Westmacott (a copy of which is annexed) reporting that there were apprehensions of serious disturbances between the Jains and the people of the Palgunge Zemindaree, and the allegations made by me in my executive capacity, for the information of the magisterial authorities, were grounded on the circumstances brought to my notice when personally enquiring on the spot into a boundary dispute between the Palgunge, Nowaghur and Katras Zemindars, regarding their respective rights in the Pareshnath Hill.

* No 111, dated [redacted]th May 1867.

4. This was an appeal from the decision of the Superintendent, Revenue Survey, sharing the hill amongst the litigants. The decision † I arrived at was accepted by all the parties at the time. I annulled the partition of the hill made by the Revenue Surveyor, and ruled that it should be surveyed in one block, as it appeared from the documents filed that originally the Proprietors of the Palgunge Estate held the estate as guardians of the hill, and though the estate might be and had been divided, there could be no division of the hill. It appeared, however, they had divided the proceeds from offerings made on the various shrines, and this is noted on the decision.

† Copy annexed.

5. I was not aware that any subsequent decision in the matter had been enunciated by the Courts of Law when I penned the letter objected to; but as I only called attention to the fact that the Palgunge Zemindars had long claimed and appropriated the offerings, I apprehend I have nothing to withdraw. If there be anything in my letter consistent with the decision of the Civil Courts, it is annulled by that decision without such withdrawal, but I gave no opinion as to whom the offerings by right belonged, and as the question is still under litigation in the Courts, I wish to abstain from doing so.

6. I cannot, however, find that the letter operated prejudicially to the Petitioner as stated by him. Mr. Westmacott, the magistrate, ruled that the Petitioner was in possession and took a bond from the Palgunge Zemindar not to interfere with him, pending the decision of the Civil Court. In regard to the alleged breaking to pieces of the object of worship in one of the shrines, the Deputy Commissioner of Hazareebaugh, in paragraph 18 of his letter * annexed, reports that the fracture was caused by lightning and no complaint or report has been made of the alleged injury to the Dhurmsala or Kothi. The Palgunge family are not Jains, but they have a veneration for the shrines and the hill, and are the last people that would be likely to desecrate them.

* No. 62, dated 1st February 1868.

7. I am satisfied that the local courts are only anxious to do justice to the parties who are now contending for the right to the offerings left by pilgrims on the shrines, or in any other cases that may be instituted regarding this place of Jain Pilgrimage,—the cases could not be transferred to the Judicial Commissioner—as that officer has no original jurisdiction. The request that they might be made over to another District Judge could not be acceded to without putting the witnesses to great inconvenience and removing the cases from the locality in which the real facts regarding them are best known, and the truth of the pleas put forth by either party most readily tested; and as the appeal from the decision of the District Officer, if it be adverse to the Petitioner, lies to the Judicial Commissioner, the Petitioner will have the opportunity of pleading before the tribunal he selects.

8. He complains, in paragraph 10, of the delay of the District Judge in deciding the suit. This is satisfactorily disposed of in paragraphs 12 and 13 of the annexed letter from the Deputy Commissioner of Hazareebaugh.

9. The 14th paragraph of the petition is quite unintelligible to me.

10. The 15th paragraph notes the inconvenient distance from Mudhubun, of the nearest Police Station, at the season when the pilgrims resort to Mudhubun, a Police force is stationed† there, at other times it is not a place of any importance, but I would recommend its being made a permanent outpost.

† Under orders from me in a letter No. 1344 of 3rd June 1867.

11. Mudhubun is the place where the pilgrims collect preparatory to ascent of the hill. There are three establishments called Dhurmsalas or Kothis, the centre of which is presided over by the Petitioner. They have separate interests, and are each visited by different sects of Jains, the Petitioner admits he is at variance with the people of the upper and lower Dhurmsalas, as well as with the Palgunge Zemindar. So long as these dissensions continue I think a Police party should be kept at Mudhubun. These disputes have been going on as stated in the 1st paragraph of the petition, for about three years. The Petitioner, it appears, has been about that period the head of the middle temple or manager for the Sitambari sect.

12. With reference to the case of murder alluded to in paragraph 15 of the memorial, I subjoin a short extract from the decision of the Judicial Commissioner.

"It appears on evidence that the Palgunge Rajah is chiefly at feud with the people of the central temple, (that over which the Petitioner presides,) that the deceased had already given evidence in the Rajah's favor as did the head of the upper temple against the central temple people, and that they were about to give evidence again when the deceased was so cruelly murdered, so that suspicions point rather to the people of the middle temple as the instigators of this disgraceful outrage; be this as it may, the court is of opinion that the offence has not been brought home to any one of the accused who must be acquitted."

13. I proceed to report on the documents received with your endorsement No. 341 of the 20th January last. The actual rights of the various persons claiming to be trustees of the Pareshnath Shrines, and the question as to the proprietorship of the hill, could not, I think, be conveniently enquired into and pronounced on by the Executive Authorities at present. The final decision in the case now before the Hazareebaugh Court will probaly authoritatively determine most of the points at issue, and for that we should, I think, wait, but though it appears from the proceedings of Government of India* that it has been resolved to give up the location to the west of the Pareshnath Hill as a sanitarium for European troops, I do not see why the costly buildings, and the right of Government in the site occupied, should be abandoned.

* No. 1076 of 5th February last, the enclosure to your memorandum No. 847 of the 10th idem.

14. In 1859 a proposition, emanating from the Chief Engineer, Colonel C. B. Young, for establishing a Sanitarium on Pareshnath came before the Government of Bengal. On the 5th January 1860, the Lieutenant Governor Mr., now Sir, John P. Grant inspected the hill. He was accompanied by the Secretary, Mr. E. H. Lushington, the Chief Engineer Colonel C. B. Young, Superintending Engineer, Colonel Maxwell, the Commissioner of Chotanagpur (myself) and several other officers, and the object of the inspection having been made known, a large body of gentlemen of the Jain persuasion from Calcutta, and other places attended. The ground pointed out as most suitable for a sanitarium by the Superintending Engineer was between and adjacent to the different shrines. There were on the hill at the time several pilgrims from different parts of India of both sexes, and on seeing them and after some discussion, the Lieutenant Governor determined that any location in the vicinity of the temple was not to be thought of. The western portion of the hill or range had up to that time remained quite unoccupied. There were no shrines there, and the approach to it was distinct from the path leading to the temples, and the representatives of the Jains present making no objections to the occupation of that part of the hill, measures were at once taken for its acquisition.

15. No claimant then appeared, but the Ranee of Palgunge, her son, the Rajah, being then a minor, and after

protracted negotiations she agreed to give up to Government whatever right she possessed in the land required. Then the barracks and officers' quarters and other buildings were erected, and though several petitions were presented by the Jains, praying that all desecration of their sacred places might be prohibited and prevented, no objection was made to the occupation by Government of the portion of the hill that had been taken up.

16. I need only refer to the memorial presented to Government of Bengal by Dhurm Chand, Purun Chand, and other members of the Sremaul Oswal sect by their attorneys Messrs. Watkins and Stokoe, under date the 25th January 1865, complaining against the resort by European Gentlemen to the sacred parts of the hill for sport, in which there is the following passage:

"Your memorialists feel sure that Your Honor will give this their humble petition the fullest consideration and that when it is brought to His Honor's notice that Government itself, when, in one thousand eight hundred and sixty, it was proposed to erect a sanitarium for European troops, which is a matter of vital importance, would not allow the religious feelings of Your memorialists' sect to be interfered with, but directed that the site for the sanitarium should be on a hill to the west of those which are held sacred by Your Memorialists' sect will not allow mere parties of pleasure to interfere with and offend Your Memorialists' religious feelings."

17. In the various petitions that have been presented to Government by the Oswals, including Dhurm Chand and Purun Chand Golicha, we have no mention of the Firman of the Emperor Akbar referred to in the memorandum of the Military Department No. 1447 of the 30th December 1867, nor do those petitions contain any protest against the cession by the Palgaunge zemindar of a portion of the hill to Government.

18. By a mistake, which was pointed out in my letter No. 1,572 of 5th November 1860, to the Secretary, Board of Revenue, they had been informed in Colonel Young's No. 4,326 of the 20th October 1860, that the whole hill had been made over to Government. In a petition numerously signed, transmitted to my Court by Messrs. Watkins and Stokoe in June 1865, the memorialists rely on this conveyance to Government as their grounds of claiming exemption from the interference of the Rajah of Palgunge.

19. On the whole, therefore, I do not consider that the Government are in any way bound to acknowledge any claim on the part of the Petitioner or others of the Jain Sect to that part of the hill or range that has been occupied as a sanitarium and though I am most anxious that all acts calculated to give just cause of offence to the Jain Pilgrims should be carefully avoided. I think the sanitarium, though no longer required for troops, should not be abandoned if it can be otherwise utilized or disposed of advantageously.

20. Since its establishment, applications have been made for building sites by parties in Calcutta, and which

could not be complied with, as it was uncertain to what extent the available ground would be required for Military buildings. If the Government have no longer occasion for the buildings they have constructed, they might be offered for sale as they stand, and it is by no means improbable that a company would be formed to secure the site and buildings as a Convalescent Station for Calcutta invalids, and pleasant retreat in the hot weather for persons to whom an inexpensive change is a consideration.

21. With reference to the applications made by the Jains at different times, and in the petitions now under consideration for a prohibition against the killings of animals on the hill, I pointed out to them, through their Attorneys, Messrs. Watkins and Stokoe, in my letter No. 1,405 of 2nd August 1865, that if their wishes were complied with, a pilgrimage to Pareshnath would soon become a very dangerous undertaking.

22. The huge hill with its out-works would become an asylum for all the beasts of prey in the country, a source of terror not only to the pilgrims frequenting it, but to the population surrounding it. If the Jains, who are a very wealthy community, were permanently to enclose and keep clear the upper portion of the hill, or several peaks on which the shrines are situated, and the ridges connecting them, I think their prejudices might be respected to the extent of prohibiting slaughter, or any act that is in their estimation pollution or desecration within the enclosure; but to all other parts of the hill Native Shikaries and European sportsmen should have free access, otherwise the whole country must suffer, and the Jains could not desire that human beings should be sacrificed in deference to their religious objections to the taking of animal life.

23. The original enclosures received with the endorsements above specified are herewith returned.

MEMORANDUM OF APPENDICES.

1. Mr. Westmacott's No. 111, dated 16th May 1867.
2. My letter No. 1211, dated 22nd Idem.
3. My decision, dated 6th February 1861.
4. Hazareebaugh Deputy Commissioner's No. 62, dated 1st February 1868.
5. My letter No. 1344, dated 3rd June 1867.
6. My letter No. 1405, dated 2nd August 1865.

E. J. Dalton, Colonel,
Commissioner of Chotanagpore.

From

E. V. WESTMACOTT, ESQ.,

Assistant Commissioner of Gobindpore,

To

The Deputy Commissioner of Maunbhoom.

(No. 111, *dated Govindpore, the* 16*th May* 1867.*)*

SIR,

I have the honor to call your attention to the facts that there exists much ill-feeling between the Jains of Parishnath and the Zemindar of Palgungo with respect to the Parishnath Temples. It was first brought to my knowledge by the institution of a Criminal Case by the Jains against certain persons represented to be servants of the Zemindar, accusing them of forcibly taking the money offered by pilgrims at the shrines, and of defiling the sacred places by bringing in persons of low caste. In this case, as the facts were not proved, the right of the Zemindar to any share in the offerings was not tried by the Court. While this case was pending, I heard, in a private letter from the officer commanding at Parishnath, that the Jains anticipated bloodshed on the hill unless tley were protected, and I took the advantage of the Mohurrum to ascend the hill on Saturday to enquire into the state of things. From what I heard I cannot doubt that the Zemindar has been taking the offerings, and also that he has succeeded in establishing a fright among the Jains, who are afraid to carry on the repairs and improvements of the principal temple which they intended; they express themselves willing to pay for the protection of the Police but I cannot think it right to give it to them until I know that their intended operations in no way injure any right of which the Zemindar may be in possession. A letter of the Commissioner, No. 1572 of November 5th, 1860, leads me to fancy that the Zemindar has or had a right to a portion of the offering. Under these circumstances it appears to me proper to call upon both parties to attend in Court with their proofs as in an investigation under Section 318 of the Criminal Procedure Code, and that the protection of the Police might be afforded if the Jains appear to be in possession of the rights they claim during their building operations and during the periodical visitations of Pilgrims. The Commanding Officer on Parishnath was inclined to believe in the possibility of bloodshed from all he had heard before my arrival, and offered, if I thought necessary, to receive daily reports from any Police Officer I might send to the spot, and himself to judge of the necessity for military interference. The matter appears to me sufficiently grave for me to ask for special orders upon the subjects.

2. While on Parishnath, I found the Jains much disturbed by the facts of the Trigonometrical Survey pillar being immediately between and close to two of their shrines, thereby taking away from their sanctity. They were very earnest on the subject, and I report it for the information of Government.

From

COLOOEL E. T. DALTON,

Commissioner of Chotanagpore.

To

CAPTAIN R. C. MONEY,

Deputy Commissioner of Maunbhoom.

(*No.* 1211, *dated Chota Nagpore, the* 22*nd May* 1867.)

SIR,

WITH reference to the correspondence submitting to me regarding the Jains and Palgunge Zemindar, I have the honor to state that the Zemindars of Palgunge have for ages claimed and appropriated the offerings made by the Jains at the Shrines on Parishnauth Hill, *and old documents in possession of the family tend to shew that they were confirmed in possession of the estate on the condition of their protecting the shrines and pilgrims.*

2. I have to request that the Assistant Commissioner of Govindpore will have the goodness to ascertain from the Jains precisely what they want. I know they have, within the last few years, *i. e.*, since the establishment of the Sanitarium of Parishnath, shewn an inclination to withdraw from all connection with the Palgunge family; but it is probable that that family have rights which cannot be summarily set aside.

3. *Formerly the Jains had no one in charge of the shrines. The Palgunge people looked after them, and of course, appropriated that was found in them after the visits of the pilgrims.*

4. It is probable that the Jains wish now to have people of their own in charge. If so, they should endeavour to buy up the claim of the Palgunge Zemindar, and settle the matter *amicably.*

5. I will instruct the Deputy Commissioner of Hazareebaugh to warn the zemindar of Palgunge against any unjustifiable interference with the pilgrim, and depute a Police Officer to Madhubun to enquire into the dissensions which probably originate there.

Court of the Commissioner of Chota Nagpore.

Case No. 39 of 1860.

Present;

Captain E. T. Dalton ... ... *Commissioner.*

The 6th February 1861.

Ranee Poorun Koowaree, Mother and Guardian of Rajah Parasnath Singh, of Palgunge, a minor Defendant ... *Appellant.*

versus

Ranees Tara Koomaree and Sabitree Koomaree, Guardians of Pertab Narain Singh, Rajah of Nowagurh, Plaintiffs, *Respondents.*

This case originated in a dispute regarding Mouzah Dbolkutta and some lands of Burwa Chattar, Chatnee, and

Bunjoree, which the plaintiffs alleged had been wrongfully appropriated by Mitterjeet Singh, the holder of a maintenance granted from the Rajah of Palgunge.

As it appeared that the dispute affected the boundary of the estates, Palgunge and Nowagurh, a notice was served on the Ranee of Palgunge but it does not appear that on the part of the minor Rajah of Palgunge, any person was accredited to the Court of the Superintendent.

The disputed lands lie to the south of the Pareshnath Hill, but the plaintiff laid claim to lands extending to the top of the hill. No satisfactory proof of possession was adduced by either porty ; it is admitted that the lands in dispute are jungle, and beyond an attempt to show that some profits had been derived from letting out the right of cutting wood in this Jungle, which both parties have endeavoured to prove, there is nothing in the proceedings of the Superintendent to indicate in whom the title and right is vested.

The Superintendent, however, considered that the dispute was in reality regarding proprietory right in the Parishnath Hill, and as it appeared by a letter from the Deputy Collector of Gobindpore that the Rajah of Palgunge had an eight annas share in the hill, and that the Nowagurh and other zemindars enjoyed the other moiety, he drew the boundary line across the hill, so as to divide it into two equal parts, assigning the eastern, and with it the disputed lands to Nowagurh, and the western to Palgunge.

The Palgunge zemindar objects to this decision, that the possession of the Parishnath Hill was not the point in dispute, and that by a summary decision of the Surperintendent, in a case in which he was not represented, he finds a division made of a part of his property which had been previously always in his sole possession.

It is admitted by the various parties interested in this case that of offerings made by pilgrims to the shrines on and about Pareshnath, the Palgunge Rajah is entitled to the half, and that the zemindars of Katrass, Jheria, and Nowagurh, are between them entitled to the other half. These offerings appear to have been enjoyed from time immemorial by the Palgunge family, of which the other zemindars are offshoot; the oldest document filed in the case is a Sunnud by Abboo-ally Khan Bahadoor, dated Fuslee 1169, by which Palgunge is confirmed rent-free to Rajah Pudomun Singh as a gift to Parishnath, and it appears from another old document that this Rajah was appointed to take care of Pareshnath Hill, but no document has been filed that shews he or his descendants ever exercised any right of proprietorship over the hill beyond that of appropriating the offerings of the pilgrims.

As a place of pilgrimage Parishnath can only be considered as an undivided estate. If the division of the hill were upheld, it would disturb the division of the proceeds that has hitherto obtained, as each person, to whom a share was assigned, could only claim the offerings made to the particular shrines, if any, that were in his share.

It is admitted in this Court by the representatives of the zemindars of Palgunge, Nowagurh, Jheria, and Katrass, that the division of the hill made by the Superintendent cannot hold good, and they agree that *Quoad* the hill it should remain as heretofore distinct geographically as a mouzah or division of an estate attached to the zemindaree of Palgunge.

Without passing any opinion at present as to whether Parishnath is or is not a part of the Palgunge Estate, it appears to me necessary, for the preservation of such rights in the hill as the parties abovenamed are allowed to possess, that it should be thus demarcated as a joint undivided estate adjoining, and in the same jurisdiction, as Palgunge, and annulling the Superintendent's order of the 13th August last, I order accordingly.

The original dispute regarding Dholkutta and other lands at the foot of the hill remains to be noticed. I find nothing in the allegations of the appellant or documents filed in her behalf that could authorize my interference with the disposal of the lands at the foot of the hill that has been made by the Superintendent. It is necessary, however, that the hill itself should be first demarcated under the instructions above given, and if it be found that any portion of the lands called Dholkutta, &c., remains, the Superintendent can pass such orders regarding them as he thinks proper.

(Sd.) E. T. DALTON, Captain,
Commissioner.

CAMP KOOTKEE,
The 6th February 1861.

From

Major H. M. BODDAM,
Deputy Commissioner of Hazareebaugh,

To

The Commissioner of Chota Nagpore.

(No. 62, dated Hazareebaugh, the 1st February 1868).

SIR,

In acknowledging the receipt of your Memorandum No. 70, dated 14th January 1868, and in returning the enclosures received therewith, I have the honor to inform you that there are three Dhurmsalas, also called Kotees or bundhars, at Mudhubun at the foot of the Parishnauth hill, called respectively the Oopurellee Kotee, (or upper Kotee,) the Munyhla Kotee (or middle Kotee), and the Nichee or lower Kotee.

2. All these Kotees are visited, and offerings made to them by the different sects of Jains.

3. The middle Kotee is visited solely by the Situmbari sect of Jains. Within the precincts of this Kootie are five or six temples erected by different members of the Situmbari sect, who have chosen the petitioner as their representative to look after their interests and to keep up the worship in these temples, and one Rogho Nath Pandey is the resident representative Gomastah of petitioner at

Madhubun, the petitioner himself having only visited Madhubun once on pilgrimage, residing generally at Moorshedabad.

4. The upper and lower Kooties are frequented by the Digumbary sect of Jains.

5. The upper Kootie belongs to Rajendra Bhoosun Bhuttarack of Gwalior, and is managed by his chellah or pupil Seetaram Pundit.

6. The lower Kootie belongs to Baboos Hoolassee Lall and Hursohoye Mull, of Calcutta, and managed by the late Chutturputh Lall (deceased).

7. The petitioner succeeded Pertab Chand (deceased) as senior representative of the middle Kootie three years ago.

8. Previous to the petitioner's incumbency there were no disputes whatever.

9. Shortly after his appointment, a dispute arose regarding certain valuables offered by some pilgrims at some of the shrines on the top of the Parishnath Hill; the petitioner's agent charging some of the Raja's servants with robbing him of these articles, the Rajah's servants charging the petitioner's agent with taking what did not belong to him. As the case was not one that could be tried in the Criminal Court for there was no evidence to show who the rightful possessor was, the parties were referred to the Civil Court.

10. The petitioner then sued the Rajah's representatives for the value of the articles taken out of his agent's possession and obtained a decree.

11. The Rajah who has come of age, has now sued the petitioner to establish the Rajah's right to take all offerings presented at the shrines on the top of Parisnath Hill.

12. It is quite true that this case has been for a long time pending, but the delay has been principally caused by the action of the petitioner, who requested that parties at Gwalior, Bombay, Lucknow, and numerous other places in the North West might be examined by Commission.

13. These Commissions were not received back till just before the Courts closed for the Dusserah vacation; and since then as there is a large mass of papers to go through, which alone will occupy me some days to read, I have not been able to set apart any fixed days for taking up the case; as to the merits of the case, it is impossible for me to give an opinion till the case has bsen fully heard by me.

14. You will observe that the petitioner, as a member of the Situmbari sect, claims the right to receive all offerings whatever, entirely putting out of sight the rights of the Digumbary sect of Jains, and, indeed, ignoring them and their Kootees at Mudhubun altogether.

15. The shrines situated on Parishnath Hill are, as you are aware, small arched domes, varying from 3 to 6 feet in height, covering a slab of stone bearing a supposed imprint of the feet of Parishnath.

16. These are built on the different pinnacle-like points, into which the top of Parishnath Hill is broken.

17. These points constantly attract the electric fluid in heavy storms; the houses and barracks being frequently struck by lightning, as Sir John Peter Grant practically learnt during his residence on Parishnath, his temporary residence being struck by lightning and destroyed.

18. During one of these storms the pinnacle to the east of the officer barrack, said to be the highest point of Parishnath Hill and carrying a small shrine, was struck by lightning about a year ago, and the shrine and the slab of stone, with the supposed foot-mark, and rock itself, riven to pieces. This is the shrine said to have been desecrated by the Rajah of Palgunge by breaking the idol's feet.

19. I believe the charge regarding the injury to the Dhurmsala to be equally groundless, for had any such injury been done, instant complaint would have been made by the Petitioner, or the Gomastah of the injured Dhurmsala or Kootie.

20. During the period pilgrims pass through Madhubun on their way to and from Parishnath shrines, a guard of police is especially detached for duty at Madhubun; for the rest of the year Madhubun is practically deserted, the only residents being one or two bunyas, who supply food to the guardians of the three Kooties and their followers, and therefore not requiring a Police guard, and not of importance sufficient to require an out-post.

21. It is true that a most cruel and cold-blooded murder did occur at Madhubun; the Gomastah of the lower temple (Chutturputh Lall) having been waylaid and murdered at the instigation of some powerful unknown enemy. No one can regret more than myself the obscurity that still hangs over the cause, and the perpetrator of this assasination.

From

COLONEL E. T. DALTON,
Commissioner of Chota Nagpore,

To

CAPTAIN R. C. MONEY,
Deputy Commissioner of Maunbhoom.

(No. 1344, dated Chota Nagpore the 3rd June 1868.)

SIR,

With reference to Mr. Westmacott's letter to your address, (No. 121 * of the 23rd ultimo) I have the honor to inform you that I have requested the Deputy Commissioner of Hazareebaugh to issue instructions for the posting of Police at Madhubun.

* Forwarded with your letter No. 722, dated 30th May 1867.

2. The survey-pillar spoken of is, I apprehend, no new erection. It is one of the stations of the Great Trigonometrical survey, and I believe, an important one. It does not appear in what way its existence on the hill can be objectionable to the votaries of Parisnath, and the Jains must be made to undersand that, with every desire

to respect their religious feelings and put a stop to any action that could give them just cause of complaint, we cannot attend to new and unreasonable demands.

From

LIEUTENANT COLONEL E. T. DALTON,

Commissioner of Chota Nagpore.

To

MESSRS. WATKINS AND STOKOE, CALCUTTA,

(No. 1405, dated Camp Purulia, the 2nd August 1865.).

GENTLEMEN,

With reference to your communications of the 24th June last and 21st ultimo, with a petition from the members of Sreemal Oswal sect, I have the honor to state that the Government Orders, in (letter No. 719 of the 7th February last, give me no authority to warn persons that they must not encroach within four miles of each temple erected on the hill, that appears to me to be the substance of that portion of the memorial presented to Government by the members of the sect, which His Honor the Lieutenant Governor could not comply with.

2. I see no objection to the remainder of the proposed inscription, warning persons against the commission of offences under Chapter 15 of the Indian Penal Code.

3. For the reasons given in the 1st paragraph, I could not appoint Chowkeedars to warn persons off the main roads leading to the temples, or to warn persons against destroying animals within a circumferance to four miles from each temple, and I believe, if such an order were enforced, the hill would become so infested with beasts of prey as to render a pilgrimage to it a dangerous undertaking.

4. The Parishnath Hill and Sanitarium are within the jurisdiction of the Dupty Magistrate of Gobindpore, and when the members of the sect have complaints to make in regard to any thing done on the hill, they should perfer them to that Officer. Unfortunately Madhubun is in another District, but I will see if it cannot be brought within the jurisdiction of Sreerampore as requested by the Petitioners.

4. I think there is some mistake in the Government letter alluded to in the 5th paragraph of the petition. The Government have not, that I am aware of, succeeded to the rights exercised or arrogated by other parties in the hill, or that part of it on which the temples are placed.

6. In conclusion I beg to say that I expect to be at Topechancy about the 10th instant, and shall probably visit the Parishnath Sanitarium, and I will do my best to impress on the residents the necessity of abstaining from all acts constituting offences against the religions of the pilgrims.

COURT OF THE JUDICIAL COMMISSIONER OF CHOTANAGPUR.

Present:

Lieut. Col. J. S. DAVIS,

Judical Commissioner.

Dated 17th May 1866.

No. 207 of 1865.

Regular appeal from the decision of Mr. James Westland, Assistant Commissioner of Hazareebaugh Division, dated 11th September 1865.

Poorun Chand Goleecha ... *Plaintiff, Appellant.*

versus

1. Shibram Karpurdaz for the Minor Rajah of Palgunge.
2. Ranee Poorun Kowary.

} *Defendants, Respondents.*

3. Collector for Court of Wards.

Suit laid at Rupees 841-12-0 value of Jewels &c.

Plaintiff, as Kurpurdaz or Manager on behalf of the Panchyat, which has the management of the Jain Temples, on Paresnath Hills, sues the Defendants, representing the Palgunge Rajah, for the value of Gold, Silver, and other articles, which he asserts, were offered in the Jain Temples, on 2nd Cheyt 1270. (Bengal) by Seyth Amabhae and Hur Koomar Seythanee, which were being brought by the plaintiff's servants to the Bundhar, when the defendant No. 1 took forcible possession of them.

The defendants reply that Palgunge and Paresnath belong to the Rajah, that all offerings made on Paresnath, whether above or below, belong to him, that defendants did not receive all the articles claimed by the plaintiff—only the silver cup, silver Kulus and the Chundooa with purdah (awning).

The Assistant Commissioner held that the plaintiff had failed to prove his right to the offerings and dissmissed the claim with costs.

In appeal, the plaintiff urges that the mere fact of the Hill and Temple being under the protection of the Rajah, is no reason why he should be entitled to the offerings, and as it is admitted that the plaintiff is entitled to the offerings. below, he has clearly a right to those made on the Hill.

When the case was disposed by the Lower Court, only two witnesses had been examined, one on each side, the evidence of the defendants' witness was set aside as hearsay only, that of plaintiff's witness except as far as it went, since the disposal of the case, the evidence of two witnesses on each side taken by Commission issued by the Lower Court, has been received. Plaintiff's witnesses, men of Behar, support the plaintiff's claim; the defendants witnesses, Seyths of Gowalior, state that the Rajah and the owner of the temples are each entitled to half the offerings, plaintiff has further

filed in this Court, copy of a proceeding of the Revenue Courts, from which it appears that the estates of four Zemindars lying at the foot of and surrounding Paresnath Hill have each an interest in the profits arising from pilgrims, visiting that Hill *i. e.* Palgunge, which has an 8-annas share; Katras, Nowaghur and Jhurria, who have the remaining 8-annas between them, *and by agreement of all parties the hill was separately demarcated by the Survey authorities as a distant holding, not belonging to any estate. From enquiries I have made it appears that no one Zemindar had any right to the Hill itself, which was merely, under their protection, but in virtue of their office, they have assumed a right to tribute from pilgrims visiting the shrines on Pareshnath.*

It is admitted by the defendants in this case that the temples on the Hill were erected by the Jains or Sarawuks with the permission of defendants' ancestor, and that all arrangements for the service of the idols, are made by the Jains through plaintiff as manager *prima facie*, therefore the Jains have a right to all offerings made at their temples, so that, unless the defendant can prove, that by consent or custom he has been allowed to appropriate the offerings, he has no case. From what has transpired in this case, the custom appears to have been deposed to by the plaintiff's witness that pilgrims first visit the Rajah (defendants), make him a present according to their means, then proceed to visit the shrines, and that all offerings made there, whether before ascending the Hill, or at the several temples, become as offerings to the idols, the property of the plaintiff as manager.

In this case it is clear that the offerings in dispute were made on the top of the Hill, were taken possession of by the plaintiff's servants and were being brought to the Bhundar when the defendants took them, out of plaintiff's servants' possession.

In my opinion the plaintiff had a right to these offerings, and, therefore, he must get a decree for such articles as the defendants are proved to have appropriated. There is no evidence to show, that the defendants took all the articles claimed, but the defendants admit having received from the Police the three articles valued at Rupees 285, *viz* a silver cup 10, Kulus of silver 25, a (Chundooa) awning and curtains with pearl fringe value Rs.250, plaintiffs will therefore recover the value of these articles.

I decree the appeal, and, in reversal of the decision of the Lower Court, I award to the plaintiff, Rs. 285, with costs in proportion. Plaintiff will pay defendants' costs on that portion of the claim which has been dismissed. All costs of appeal to be borne by Respondents, interest to run on both side, at 12 per cent per annum till realized.

(Sd.) J. S. DAVIS,
Judl. Commissioner.

17*th May* 1866.

True Copy,
(Sd.) J. H. BELCHAMBER,
Deputy Registrar,
26-1-67.

(RESOLUTION.)

JUDICIAL.

Fort William, the 9th April, 1868.

Read a petition, dated 13th December 1867, presented by Messrs. Swinhoe, Law and Company, on behalf of Baboo Poorun Chand Golicha Kootewal Seth, Honorary Manager of the Sitambari Jain Temples on the Parisnath Hill, preferring certain complaints in connexion with those temples.

Read also a report from the Commissioner of the Chota Nagpore Division on the above petition.

1. The first prayer of the petitioner is that the Commissioner of Chotanagpore be ordered to withdraw his letter dated 22nd May 1867, addressed to the Deputy Commissioner of Manbhoom, in the matter of a dispute between the petitioner and the Zemindar of Palgunge, in regard to the offerings presented in the Parishnath Temples. The Lieutenant-Governor finds that the question of the ultimate right to the offerings is still under litigation, but that a decision of the Judicial Commissioner, dated 17th May 1866, is at present in force, which declares the Jains and not the Palgunge Zemindar to have a right to receive the offerings made at the temples.

Nothing contained in the Commissioner's Letter which is complained of can affect this judicial decision by which the Magistrates must necessarily be guided as long as it remains in force; and so long as it does remain in force it is incumbent on the Zemindar of Palgunge to refrain from interfering with the presents which are made at the shrines. Indeed, in the 11th paragraph of the petition, the petitioner admits that, under Section 318 of the Code of Criminal Procedure, the Assistant Commissioner at Govindpore has upheld his possession of the privilege of receiving the offerings. The Lieutenant-Governor, therefore, does not think it necessary to pass any further orders on this point.

2. As to the complaint that the Palgunge Zemindar has desecrated the temples and idols, it appears from the Commissioner's report that the charge is unfounded; when such acts are committed or contemplated, the parties aggrieved should seek redress or protection from the local tribunals and officers.

3. There appears to be no reasonable ground for the complaint of delay in disposing of the pending judicial case, and the Lieutenant-Governor sees no reason whatever for directing that the suit now before the Courts in the matter of the offerings and other causes in respect of the Parishnath Hill and Madhoobun Temples be tried in the first instance by the Judicial Commissioner of Chotanagpore or the Judge of the nearest Zillah Court, nor is it within His Honor's power to pass such an order.

4. From the 10th and following paragraphs of the Commissioner's report, it appears that in consequence of the

dissensions between the Palgunge Zemindar and the petitioner who is the representative of the Situmburee Sect of Jains, and as such manages the middle Dhurmsalah, and also on account of the dissensions between the petitioner and the managers of the Upper and Lower Dhurmsalahs (which are frequented by the Digamburee Sect of Jains), the country is in a disturbed state. The Lieutenant-Governor therefore desires that the Commissioner and Inspector-General of Police should report whether arrangements and changes can be made which shall give a permanent Police post to Mudhoobun as recommended in paragraph 10 of the report.

5. In paragraph 12 of his petition the petitioner complains that "several European Gentlemen and those of the Regiment still resort near the Parisnath Temple for the purpose of hunting excursion, whereby petitioner's sacred cause is greatly vitiated," and from a memorandum No. 126, dated 10th January 1868, from the Government of India in the Home Department, forwarding one No. 1447 dated 30th December 1867, from the Military Department, it would appear that one Khajoo Ram, who is stated in these papers to be the Calcutta Agent of the petitioner Poorun Chand Goleecha, has complained of "inconvenience experienced owing to the location of European Soldiers at Parisnath," and has produced a document purporting to be a Sunnud of the Emperor Akbar, which is declared by the Commissioner to be now produced for the first time notwithstanding the litigation on the subject which has been going on. The document confers on the followers of the Jain Situmbari religion the Parisnath Hill "with all the places of worship and pilgrimage below the mountains," and ordains that no one "shall kill an animal on, below, or about the mountains and the places of worship or pilgrimage." The Lieutenant-Governor is of opinion that in view of the facts stated in the 13th and following paragraphs of the Commissioner's report, the Government can not recognize this new claim which is set up on behalf of the Jains.

6. The reason given in paragraphs 21 & 22 of the report against prohibiting the destruction of wild animals on the Hill is conclusive. The Commissioner and the Local Authorities will do all in their power to prevent any improper interference with the religious views of the Jains, but the Government cannot allow protection of the life of animals to be carried to an extent which will endanger the safety of human beings. The party which the petitioner represents may follow the course which is suggested by the Commissioner in paragraph 22 of his report.

By Order of the Lieutenant-Governor of Bengal,

(Sd.) H. L. DAMPIER,

Officiating Secy. to the Govt. of Bengal.

No. 2058.

ORDER.

Ordered, that a copy of this Resolution, and of the Report from the Commissioner of Chotanagpore, be forwarded to Messrs. Swinhoe, Law & Company, Attorneys of Petitioner.

No. 2059.

Ordered also, that extracts (paragraph 5) from the Resolution and (paragraphs 10 & 11) from the Report, be forwarded to the Inspector-General of Police, with a request that he will submit a report in regard to the proposal for the establishment of a permanent Police post at Mudhoobun, at the foot of the Parisnath Hill.

(Sd.) A. MAKENZIE,
Under Secy. to the Govt. of Bengal.

FORT WILLIAM.
The 9th April, 1868.
T. B. L.

The 25th June 1869.

Present :

The Hon'ble L. S. Jackson and W. Markby,
Judges.

Suit for confirmation of possession
Cause of action.

Case No. 209 of 1868.

Regular appeal from a decision passed by the Deputy Commissioner of Hazareebagh, dated the 25th June 1868.

Poorun Chand Galeecha (defendant) *Appellant,*

versus

Pareshnath Singh (plaintiff) *Respondent.*

Mr. Branson for Appellant.

Mr. Peterson for Respondent.

In a suit for confirmation of possession of a hill with the places of worship appertaining thereto and the idols set up thereon, the alleged cause of action being that defendant intended to lay claim to the offerings made and supposed to call in question plaintiff's possessory right:

Held, that the plaint disclosed no cause of action whatever.

Markby, J.—In this case the plaintiff asks that "after coming to a decision as to his title to the hill of Paresnath, the places of worship, the idols appertaining thereto, and to the revenue derived from the places, the profits arising from the offerings made to the idols, his possession to the said hill of Paresnath, the places of worship appertaining thereto, and the idols which are set up may be confirmed." He goes on to state that the grounds on which he bases his claim are that the hill Paresnath and the places of worship are plaintiff's ancestral property; that Thakoor Paresnath is plaintiff's family idol; and that plaintiff's ancestors, from time immemorial, by virtue of proprietary right in the said hill and places of worship, as also on the score of possession of the image of Thakoor Paresnath, granted leave to the devotees to visit those places of worship and received the offerings made in those places.

The plaintiff then states that the defendant, relying on some expression of opinion by the Judicial Commissioner in a dispute of a different character which took place between the defendant and plaintiff's guardian during the plaintiff's minority "intends to lay claim to the offerings made to the idols and at the places of worship and purposes to call into qestion your petitioner's possessory right to the hill and places of worship. Under these circumstances, the cause of action arose from the date of the decree, as from that time the defendant had made up his mind to interfere with your petitioner's right in the hill and places of worship, as also in his right in general in respect to offerings."

The defendant in his written statement took some formal objections to the plaint which are not very material.

He also asserted that the hill Paresnath and the places of worship appertaining thereto belonged to the Setumbury sect of Jains, of which he was a member; and that that sect for a very long time had held, and still holds, exclusive possession of it, making pilgrimage thither, building shrines there and so forth. Further, he asserts, as I understand him in a round about way, that all the offerings made to the idol Thakoorjee and at the places of worship belong to, and are used in the service of, the idol Thakoorjee, any surplus of cash which remains being applied to charitable purposes.

The plaint was filed on the 30th April 1867. The defendant's written statement was filed on the 19th June following. Commissions to take evidence in Calcutta and Bombay were issued, and witnesses were also examined on the spot by MR. DA COSTA and by the present Deputy Commissioner. On the 25th of June 1868, the Deputy Commissioner proceeded to give his decision, and he states that fourteen issues were fixed for trial. Upon what materials these issues were fixed does not appear, whether upon the plaint and written statement, or upon the oral examination of the parties or their pleaders, or both; but presumably the latter, for these issues raise some questions which are in no way suggested by the written allegations on either side. The 5th, 6th, 7th and 8th issues are :—

Whether plaintiff is in possession of the Parisnath hill and shrines, &c, thereon, or not ?

If the plaintiff is not in possession, whether the suit is barred by limitation ?

Who is entitled to receive the offerings made by the pilgrims at the shrines and temples on the Parisnath hill ?

The other issues appear to raise either preliminary objections of a purely formal character, or matters of evidence only subordinate to the three just stated.

The Deputy Commissioner, after finding upon all the issues, gave a decree in favour of the plaintiff as to part of his claim.

The defendant appealed, and the first ground taken on appeal is that the plaint is bad in two particulars; *first*, in not stating the nature of the relief sought for ; and secondly, as not shewing any cause of action.

As regards the first objection, there can be no doubt that the relief sought for is vaguely and obscurely stated. The plaintiff asks for an enquiry into his title as to five things,—the hill, the places of worship, the idols, the revenue of the place, and the offerings. But he only asks that his possession may be confirmed as to the three last. The actual enquiry appears to have taken place as to all except the fourth.

Upon the whole, however, we think that this objection ought not to prevail. We think the plaintiff intended to ask, and that the defendant understood that he intended to ask, that his right to hold and enjoy all the five things specified in this paragraph should be enquired into and his possession thereof confirmed.

With regard to the objection that the plaintiff has stated no cause of action in his plaint, we think that it is perfectly plain that he has not done so. All that is stated is a vague intention on the part of the defendant to set up a claim. So far from stating any act done by the defendant which could affect the plaintiff's right, it is not even stated that the defendant intends committing any such act. We think it requires no argument to show that the plaint discloses no cause of action whatever.

But it is contended by Mr. Peterson that this matter is not to be considered now in the same light as if the objection had been taken in the Court below; that the defendant has by his answer challenged the plaintiff's right, has set up a right in opposition thereto, and has virtually asked the Court below to decide between them; that having done so, he cannot now turn round and say that the suit will not lie.

We are not at all prepared to say that there is not some force in this argument, and we should certainly not feel inclined to favor this mode of getting rid of an adverse decision by the defendant. But at the same time, we must take care that the time of the Courts and the money of the parties is not wasted in prolonging a litigation which will be in the end fruitless. We think it is obvious that this will be the case here. The judgment of the Deputy Commissioner has been referred to for the purpose of ascertaining, if possible, on what points the contest below really turned. It is obvious that he has expressed an opinion on some subjects which in no way came within the scope of his enquiry. Upon other points, he has expressed himself so vaguely that it is not easy to discover what he really meant; nor do we think it would be possible to try the appeal on the issues as they stand. We should in fact, if this appeal were to proceed, have to try the case pretty nearly *de novo*. But even if this were done, and an ultimate decision were come to as to the points in dispute between the plaintiff and defendant, it would be of no avail. The defendant sets up no claim whatever in his own person. In a vague sort of way he seems to have stated in the course of the case that he was acting on behalf of the Setumbury Sect of Jains; but the assertion seems to be altogether groundless. He has on a previous occasion and probably does still claim to be sebait of one of the temples, but that would not give him any power to represent the whole body of persons who claim rights and privileges in reference to this property which the plaintiff is unwilling to recognize.

It was urged by Mr. Peterson that a great deal of quarrelling and litigation might be prevented if we would hear and determine the questions in this appeal. We are assured that the defendant is setting up pretentions which the Rajah will resist, and one day or other all these questions will have to be settled. That may be so. But it would be an entirely false security if the plaintiff were to repose upon any decision which we might give in this case. So far as it was in favor of the plaintiff, it would certainly

he contested by some other member of the Jain religion, and in this new contest the present decision would be altogether useless.

It was also contended that though the plaint only stated an intention on the part of the defendant to claim the rights, yet there was evidence that he really had already gone a great deal further. To show this, two sets of proceedings were relied on. One was in the Criminal Court, in which certain persons in the employ of the Rajah were prosecuted for taking away building materials which were in the hands of the defendant's servants. The complaint was dismissed, but the Rajah was ordered to find sureties for his good behaviour. The end, as far as we can gather the view of the Magistrate, was that the defendant had only exercised his strict right in repairing an old temple, but that he had exceeded his rights in attempting, without the permission of the Rajah, to build a new one.

In the other case, the dispute was as to the right to some offerings made at one of the shrines. The present defendant was plaintiff in that case, and he succeeded in establishing his right to the offerings which he claimed.

We cannot gather from these proceedings any intention on the part of the defendant to set up the claims which the plaintiff seems to apprehend. It could hardly be supposed that when challenged in this suit he would admit the plaintiff's claim but prior to this suit he seems to have confined his claims within very moderate limits.

Even, therefore, admitting that we are at liberty when considering this question to turn our attention from the allegations in the plaint to the evidence which has been adduced, we think that the plaintiff had no cause of action. Judging from the language of the plaint and the general form in which it is drawn, we are very much disposed to think that the vague and sweeping way in which the Rajah's claims have been put forward is not the result of the carelessness or ignorance of his advisers. We are very much disposed to think that this is an attempt to create, at least to revive, rights over this hill and the temples upon it, as to the exact nature of which the plaintiff is very uncertain, and that he is desirous to avoid the obligation under which he found himself in the last suit, namely, of stating and establishing with precision the right which he claimed, and of shewing that he had acted within it. The plaintiff is not an inexperinced litigaut, and we have no reason whatever to suppose that he is *inops comitii* in these matters.

Upon the whole we think that the suit as framed will not lie; and without going into the merits of the case, we consider that on that ground it ought to be dismissed. The decree of the Lower Court will therefore be reversed, but under the circumstances we think that we ought not to give costs.

Stamp One Rupee.

Filed 24th September 1878.
H. P. Sh.

True Copy

Sub-Registrar.

The Seal of the Deputy Registrar of Hazareebaugh.

To the high in dignity Srijoot Raja Paresh Nauth Singh, son of Raja Dirpo Nath Singh, deceased, caste Baghil Rajpoot, occupation zemindari, inhabitant, proprietor and zemindar of Gadi Palgunge, Pergunnah Kharuckdeeha, Sub-Registration and District Hazareebaugh.

I Srijoot Baboo Haruck Chand Gooleecha, Honorary Manager, Jain Sitambari Society, residing in Azimgunge, Pergunnah Moraripoor, Police Station Asunpoora, Sub-registration District Lalbagh Registration District and District Moorshedabad, execute this instrument of Ikrarnama to the effect following :—

That in the District of Hazareebaugh, Sub-Division Pachamba, Pergunah Kharuckdeeha Thana Doomri, Sub-Registration District Burhi, Gadi Palgunge, there exists from time immemorial, a principal place of pilgrimage on the Paresnath Hills for the followers of the Jain religion. This holy place has been in the charge of the Jain Sitambari Society ; and people have been all along performing the Sheva Poojah, Teeruth Durshun &c., of the idols and footmarks &c., placed in the temples of the Jain Society. Several years ago various disputes having broken out between you and the Jain Sitambari Society, and the members of the Jain Setumbari Society, being inhabitants of far distant places and finding it very difficult to carry on such disputes and litigations with you, and the same being calculated to affect seriously the observance of their religious rites, an Ikrarnama was accordingly on the 4th of Jaith 1279, corresponding with the 16th of May 1872, executed in respect of the same with the approval of yourself and the Jain Sitambari Society. It was agreed by the members of the Jain Sitambari Society that after the expiration of 3 years as stated in the Ikrarnama, they should execute a *Mukurrari* Ikrarnama agreeing to pay you and your heirs all along, the

income arising from the offerings at the temples located on the Hills whatever the same may come to by annual average calculation. From various causes the execution of such deed has been delayed. Now you as well as the Jain Sitambari Society, having regard to the state of income arising from the offering at the temples situated on the Hills have fixed a consolidated sum of Co.'s Rupees 1,500 one thousand and five hundred as representing the annual average income, and the Jain Setambari Society do hereby agree and give in writing that they shall pay in full the annual sum fixed as above from year to year commencing from the 15th of January in one kist or instalment unto you and your heirs and your and their representatives. Neither you nor your heirs or your or their representatives, beyond receiving the said Mokarari sum, shall be competent to make any objection or claim at any time in respect of the offerings at the Hills that shall accrue either at the present or future time. If the Jain Setambari Society fail to pay the aforesaid fixed Mokarari sum of Company's Rupees fifteen hundred annually as promised by them, then in that case the provisions contained in the Ikrarnamah of the 16th May 1872, with regard to the realization of the money and the consequences attaching to the non-payment of the same shall be enforced. You shall not be competent to resort to any other measures for realization of the money, contrary to what is provided in the Ikrarnama. All the other conditions by which you have bound yourself by the aforesaid Ikrarnama are hereby confirmed. If you or any of your heirs or your or their representatives do anything contrary to any of the conditions laid down therein, the Jain Setambari Society shall act according to the provisions of the said Ikrarnama. To this neither you nor your heirs &c. shall have any objection whatever, nor shall you, or they be competent to raise any contention. For this reason agreeably to the terms of the Ikrarnama dated the 16th May 1872, upholding all other conditions laid down in the aforesaid Ikrarnama, I give in writing this Mokarrari Ikrarnama. Finis. Dated the 6th Ashin 1285 Bengali, corresponding with the 21st September 1878 A. D.

Writer.

SRI KARTICK CHUNDRA MITTER,

Present resident of Hazareebaugh.

Witnesses.

RUSSICK LAL GHOSE,

Inhabitant of Hazareebaugh.

(Sd.) GOPAUL CHUNDRA CHUCKERBATTI.

(Sd.) HARI CHARAN MITTER. (*Vakeel*).

Copied by,

SRI LUCKHI NARAIN BUNDOPADHYA.

12—11—78.

Compared by,

(Sd.) DENO NATH GUPTA.

13—11—78.

Dated 6th of the month of September 1878 *A. D.*

Value—One Rupee 1.

Purchaser MOORUT SING,
inhabitant of Hazareebaugh,

Signature of Chumrar Ram of Hazareebaugh, Pergh Puchumba.

Stamp One Rupee.

Admissible under Rule 42.

Correctly stamped under the General Stamp Act Schedule 4, Section 16.

Fees paid Rs. 3—(1a L. N. B. C.
Stamp on the original sufficient.

(Sd.) C. W. W. BRETT,
Sub-Regr.

Presented for Registration at 11 A. M. on the 11th day of November 1878 at the Hazareebaugh Sub-Registry Office by Gopal Chunder Chuckrabatti, son of Ram Kumar Chuckrabatti alias Petamber Chuckrabatti of Tribini, P. Pannan Zillah Hoogly, under a Special power of Attorney No. 61 for 1878, recorded in the Sub-Registry Office at Baloochor, the executant.

(Sd.) Gopal Chunder Chuckarbatti.
(Sd.) C. W. W. Brett.

11—*Novr.* 1878.

Execution admitted by Gopal Chundra Chuckrvatti, son of Ram Kumar *alias* Pitambar Chuckraburti of Tribini P. Pannan, under the special power of Attorney stated above.

(Sd.) GOPAL CHUNDRA CHUCKRABATTI,

Identified by Saroda Persad Sarkar son of Nilkamal Sarkar of Hazareebaugh.

(Sd.) SARODA PERSAD SARKAR,
(Sd.) C. W. W. BRETT,
Sub-Registrar.

Dated 11th November 1878.

Copied and Compared
(Sd.) L. N. BANERJEE,

Of 13th November 1878.

Registered Book No. IV.
Vol. 1 of 1878.
Pages 161 and 162.
No. 8.

(Sd.) C. W. W. BRETT,
Sub-Registrar.

Dated 13—11—78.

Stamp One Rupee.

Copy taken from
Book No. 4.
Vol. 1. Pages 61, 862 of 1878.
Hazareebaugh.
Signature of Rajah
Sri Paras Nath Singh.
By his own pen.

Stamp Fifteen Rupees

True Copy.
(illegible.)
Sub-Reg.

I Rajah Sri Paras Nath Singh, son of Rajah Dirpo Nath Singh deceased, caste, Rajpoot, occupation Zemindar, inhabitant, proprietor, and Zemindar Gadi Palgunge, Pergana Kharuck Deeha, Sub Registration, District Barhi Registration, District Hazareebaugh, Thana Doomri, do hereby agree with Babu Haruck Chund Gooleecha, son of Babu Karam Chund Gooleecha, deceased, caste Oswal, occupation Mohajani, Honorary Manager of the Jain Sitambari Society, residing in Azeemgunge, Pergana Moraripoor, Police Station Asunpoora, Sub Registration District Lal Bagh, Registration District Moorshedabad, to the effect following :—

That owing to disputes existing between me and the Jain Society, in respect of the offerings at temples, situate on the Paresnath Hills, appertaining to my Zemindari of Gadi Palgunge aforesaid, an Ikrarnama dated the 16th of May 1872 A.D. corresponding with the 4th of Jaith 1279 Bengali, was executed for a Mukrrari Settlement, being effected after lapse of three years. Now, although a long-time has expired after prescribed period, yet the same has not up to this time been executed. Now, the annual income from the offerings at the aforesaid hills, being fixed at the sum of Rupees 1,500 one thousand and five hundred between me and the Jain Sitambari Society, I do of my free will hereby declare that the Jain Sitambari Society are and shall be at liberty to appropriate and spend the whole of the offerings at the temples on the Paresnath Hills aforesaid on payment of the sum of Rupees 1,500 one thousand and five hundred annually to me the declarant, my heirs and representatives. I, my heirs or representatives shall have no power to interfere in any way in respect of the offerings aforesaid, so long as annual sum so fixed is paid. The Jain Sitambari Society must pay from year to year, each instalment on the 15th of Jannuary, and the 1st instalment will be payable on the 15th Jannuary 1879 A. D. In case of non-payment of the aforesaid aunual sum so fixed, the proceedings and the consequences mentioned in the aforesaid Ikrarnama, bearing date the 16th May 1872 A. D. shall be applicable, and the conditions laid down by me in the said Ikrarnama shall hold good. For this reason upholding the conditions laid down in the former Ikrarnama, dated the

16th May 1872 A. D., I give in writing this Ikrarnama at Rupees 1,500 one thousand and five hundred, so that it may be of service when required.

Witnessed,
Gumir Singh, inhabitant of Khorchachi, Gudi Palgunge,
By his own pen.

Witnessed,
Hazari Lal, inhabitant of Khas Palgunge,
By his own pen.

GOWRI PERSHAD, Pleader,
By his own pen.

Dated 21st September 1878, *A. D.*

No. 119.

Date 17th of the month of September 1878, *A. D.*

Value.....15 Fifteen Rupees—Purchaser Dasoo Ram Singh, present resident of Hazareebagh, Perguna Pachamba.

For himself,

Signature of Chumroo Ram—Stamp-vendor of Hazareebagh.

Compared
Sooraj Roy.
11th Novr. 1878, *A. D.*

Copied,
Doorga Pershad, Mohurrir.
11th Novr. 1878, *A. D.*

Stamp Sixteen Rupees.

Admissible under Rule 42. Correctly Stamped, Act schedule 1 Sec. 14. Fees paid A. 8.

(Sd.) L. N., B. C.

Presented for Registration at 11 A. M. on the 11th day of November 1878 at the Hazareebagh Sub Registry office by Mathura Persaud, son of Tula Ram, Kayoth of Hazareebagh as Agent for Rajah Parasnath Singh of Palgunge under a General Power of Attorney, No. 7 for 1878, executed in the presence of the Sub-Registrar of Pachamba the executant.

(Sd.) Lala Mathoora Pershad, son of Munsi Tula Ram resident of Hazareebagh, General Attorney for Rajah Paresnath Singh, inhabitant and proprietor and Zemindar of Gadi Palgunge, Perganah Kharuckdech, By his own pen.

(Sd.) C. M. W. BRETT,
Sub-Registar,
11th November 1878.

Execution admitted by Mothura Pershad, son of Tula Ram, Koyista of Hazareebagh, Attorney, on behalf of Rajah Parasnath Singh of Palgunge under the General Power of Attorney No. 7 of 1878, registered in the office of the Sub-Registrar of Pachamba.

(Sd.) MOTHOORA PERSHAD,
By his own pen.

Identified by Hunman Das, son of Damon Singh, Ichak Puchamba.

(Sd.) Bukhshee Hunuman Das, son of Bukhshee Damun Singh, deceased, Caste Kaith, occupation service, inhabitant of Ichak Pergana Pachumba Khas.

(Sd.) C. M. W. BRETT,
Sub-Registar.
11 *November* 1878.

Copied and Compared
(Sd.) L. N. BANERJIE,
H. 12-11-78.

Regd. Book IV.
Vol. 1 of 1878.
Pages 161 & 162.
No. 8.

(Sd.) C. M. W. BRETT,
Sub-Registrar.
12-11-78.

Copy.

(Stamp of Rs. 20)

Registered in
Book I.
Vol. V.
Pages 221, 222, and 223
being No. 596 of 1876
Pachumba.

(Sd.) Raja Paresh Nath Singh,
Proprietor of Guddi Palgunj
Pergh. Kharagdiha.—Zilla Hazaree-
baugh.
The Pottah executed by me is
correct.

Seal of
Paresh Nath Singh.

Pottah granted by Raja Pares Nath Singh, son of Raja Darap Nath Singh, by caste a Baghil Rajput and by profession a zemindar, inhabitant and proprietor of Guddi Palgunge, Pergh Kharagdiha, Sub Registry Khurharbari Registry and district Hazareebaugh, to Mr. R. H. Baddam, son of Colonel H. M. Baddam, by occupation a tea-planter &c., at present residing in Hazareebaugh, Pergunnah Juppla, Zillah Hazareebaugh. Whereas I the said Rajah, on receipt of Rs. 1,000 as *Nazarana* granted in Mokurrary according to the conditions laid down below, 2,000 acres, that is English bighas comprising 4,989 square yards per bigha, situate in Taraf *upper pith-pahar* Paresnath, appertaining to Guddi Palgunge, with jungle, forest, rivulets, Nalas, Kapas, bomboos, situate within the said 2,000 bighas of land, at an annual Juma of Rs. 500 for the 1st 20 years, Rs. 750 for the next 20 years and Rs. 1,000 for ever afterwards, from the the beginning of 1,284 Fusli.

1. Mr. Baddam should select and take the said 2,000 acres out of the land situate within the boundaries given by Munger Lal in the map annexed to this document. It is also stipulated that should any other person wish to take land other than in which the work of the said Saheb would be carried on and besides the 2,000 bighas, the saheb would be entitled to receive a written notice of the same and if the saheb do not, within 3 months from the date of receiving the written notice, take (the land) by means of a written document, I shall by all means, be at liberty to settle it with others. The said Saheb will have no objection thereto, nor will he have any right therein.

2. The boundaries of the land, which the other person would like to make settlement of, must be given in the notice which will clearly show to the said Saheb, of what part the land is, nay, when said saheb will go there, the land set apart will also be shewn to him. But it must be borne in mind that the saheb will have to go and see the land within the term of the notice, and should he not go to see

it within the term of the notice, no objection of his on the ground of non-inspection will be of any avail.

3. The rent of this Mokurrary settlement will be due in every year on that date which will correspond with the 1st of January of every year. And if the rent will not be paid by the month of April, a notice will be issued to Mr. Baddam or his heirs or representatives, and if, within 3 months that is, upto the 30th June of that year, the fixed rent will not be paid, the Mokurraridar will have to pay double rent for that year, and if by the 30th September of the said year the said double rent will not be paid, this Pottah will, according to the provisions or law, be annulled, and the Mokurraridar or the heirs and representrtives of the Mokurraridar will be dispossessed.

4. Mr. Baddam will have power to cut all the jungle and trees situate on the land let out in Mokurrary for preparing (land) for tea plantation or for any other purpose. I or my heirs or representatives will have no objection thereto.

5. All the profits derived from cultivation or any thing else, of the said 2,000 acres of land, will be the right of the Mokurraridar aforesaid. If I or my heirs or representatives do, by any reason, demand enhanced rent, it will be improper and rejected.

6. I have all rights to the remaining land of the *Pahar* (mountain). If the said Mokurraridar or the heirs or representatives of the said Mokurraridar do claim income derived from the jungle or any other source of the land other than the said 2,000 bighas, it will be improper and rejected. But it is stipulated that the said Mokurridar will be entitled to get (wood) for building Bungalow and houses on the Pahar and for preparing boxes, ploughs and other things necessary to keep tea in, for a fair and usual price.

7. The notice alluded, to in the above para will be served in this manner. A written notice will be sent to the Saheb, in which the facts as to quantity, the amount of Juma land, security money, Nazrana, and the conditions which the other person would agree to, will be put down. In case of the notice being for arrears of rent it will be served on the Saheb with the details of the amount of arrears and the instalments due. (The Saheb) will give a receipt for it. Should the Saheb refuse to grant a receipt or to receive the notice, the notice would be published and it would affixed to a conspicuous place in the Sub-Divisional Court of Karharbari. If the Sub-Divisional Officer oppose in doing so, the notice will be affixed to a conspicuous place close to the Sub-Divisional Court. This will be treated as if the notice were served upon the Saheb and the receipt granted.

8. The Saheb will not interfere in the agreement between me and the Jain Sitambari Society for building Dhurumsala and Mundil (temple). The rent of the land which will be taken up by the Mundil and Dhurmsala out of the land now settled or to be settled with the Saheb in future, will be deducted at the rate which will

be in vogue at the time of the construction of Mandil &c. I or the Saheb will have no objection thereto. The Saheb has not and will have no power to block up the old passages, or to interfere in the work which the pilgrims would perform on the Paresnath Pahar. If he do so, he will be responsible for it and will be liable for the damages.

9. I or my heirs or representatives will by no means, interfere with the inlets of water which exist, for the irrigation of the tea-plantation &c., or which will in future exist or in making any passage for carrying water or any other work, which the Saheb may wish to do for the purpose of irrigation of his plantation.

10. Be it known that the land settled under this deed had been under the Pottah and Kabuliat, dated the 2nd September 1874, settled with Mr. J. B. Beeby, the former manager of Dhunwar estate. The new Mokurridar states that he has purchased it and declares that in case any claim be preferred on the basis of the said Pottah, the said Mokurraridar will be held responsible and liable for it, consequently the settlement is made upon the application of the Mukurraridar. Should any claim be preferred on the basis of the former (transaction) the present Mokurraridar will be responsible and liable for it.

by cancellation of the former Pottah.

11. The Mokurraridar or his heirs and representatives will have no right to and will have nothing to do with the mines or hidden treasure that be found within the property let out in Mokurrari. They all will be and are my and my heirs' and representatives' right.

The 14th October 1876.

No. 4. I sold this paper for 20 Rupees on the 16th September 1876, to Baboo Jodu Nath Mookerjee, pleader of the Hazareebaugh Court.

Written by (Sd.) MOTHIRRA PERSAUD,
SOORAJ PARTAP. *Stamp-vendor,*
Compared by *Hazareebaugh.*
DURGA PROSAD MOHORIR.

I. C. Bose & Co., Stanhope Press, Calcutta.

CONTENTS.

	Page.
Akber's Firman	1
Firman of King Ahmud Shah Bahadur	3
Letter from Commissioner of Chotanagpore to the Secretary to the Government of Bengal, concerning Puran Chund Golicha's petition to Government, (No. 503, dated Chotanagpore the March 1868)	5
Letter from the Assistant Commissioner of Govindpore to the Deputy-Commissioner of Manbhoom, concerning the quarrel between the Jains and the Palgunj Zemindar, (No. 111, dated Govindpore the 16th May 1867) ...	10
Letter from Commissioner of Chotanagpore to the Deputy-Commissioner of Manbhoom, concerning ditto, (No. 1211, dated the 22nd May 1867)	11
The Order of Captain H. T. Dalton, Commissioner of Chotanagpore in the Case No. 39 of 1860, of Ranee Puran Koowaree, Mother and Guardian of Rajah Paresnath Sing, Defendant Appellant, *versus* Ranees Tarakumaree and Sabitreekumaree, Guardians of Pertab Narain Singh, Rajah of Nowagurh, Plaintiffs, Respondents	11
Letter from the Deputy-Commissioner of Hazareebagh to the Commissioner of Chotanagpore, concerning the quarrel among the Rajah, the Situmbury and the Digumbury Sects of Jains, (No. 62, dated the 1st February 1868) ...	13
Letter from Commissioner of Chotanagpore to the Deputy-Commissioner of Manbhoom for posting of Police at Manbhoom and regarding Survey Pillar, (No. 1344, dated the 3rd June 1868)	15
Letter from Commissioner of Chotanagpore to Messrs. Watkins and Stokoe, Calcutta, regarding the killing of animals on the hill, (No. 1405, dated the 2nd August 1865)	16
Regular Appeal (No. 207 of 1865, dated the 17th May 1866), before the Judicial Commissioner from the decision of the Assistant Commissioner of Hazareebagh Division, dated the 11th September 1865, Purun Chund Golicha, Plaintiff Appellant *versus* the Guardians of the Minor Rajah, Defendant Respondent	17
Resolution of the Bengal Government, dated the 9th April 1868, on Purun Chund Golicha's petition, dated the 13th December 1867	19
Regular appeal from a decision passed by the Deputy-Commissioner of Hazareebagh, (dated the 25th June 1868) Poorun Chund Golicha (Defendant) appellant, *versus* Pareshnath Singh (Plaintiff) Respondent	21*a*
Ikrarnama executed by Babu Horuck Chund Golicha in favor of Rajah Paresnath Singh, dated the 6th Ashin 1285 Bengali, corresponding with the 21st September 1878 ...	23
Agreement executed by Rajah Paresnath Singh, in favor of Babu Horuck Chund Golicha, dated 21st September 1878	27
Pattah granted by Rajah Paresnath Singh to Mr. R. H. Baddam, dated the 14th October 1876	31